

APPLICANTS:
George & Carolyn Belton

REQUEST: A variance to allow a sunroom
within the required rear yard setback

HEARING DATE: September 26, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5508

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: George & Carolyn Belton

LOCATION: 1923 Bayberry Road — Edgewood Meadows, Edgewood
Tax Map: 65 / Grid: 3F / Lot: 494
First (1st) Election District

ZONING: R3 / Urban Residential District

REQUEST: A variance, pursuant to Harford County Ordinance 6, Section 10.05, to permit an enclosed porch addition to encroach 6 feet into the required 35 foot rear yard setback in a R3/CDP District.

TESTIMONY AND EVIDENCE OF RECORD:

George Belton and Carolyn Belton, Applicants, are the owners of an approximately 7,100 square foot parcel in Edgewood Meadows, improved by a one-story, brick and sided rancher. The subject property is similar in size and shape to others in the neighborhood.

To the rear of the home, and attached to it, is located a 16 foot by 12 foot deck (see Attachment 9 to the Staff Report). The deck was constructed with a Harford County building permit.

The Applicants purchased the subject property in September 2004. The Applicants now desire to enclose the deck with a roof and glass and screened-in enclosure. This would help create an insect free environment, and most particularly would give the Applicants protection from the sun. Mrs. Belton has been diagnosed as having had skin cancer, and her doctor recommends she avoid direct sun exposure. The Applicants also support this request by arguing that the proposed enclosed sunroom will provide additional insulation for the house and accordingly reduce heating and air conditioning costs.

The Applicants have discussed their request with their adjoining neighbors and no neighbor has expressed any opposition. The Applicants have submitted three letters from various neighbors indicating not only their lack of opposition, but support for the enclosure.

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While the lot appears to be regular in shape and size, Mr. Belton notes that the house is actually constructed approximately 8 feet off the front yard setback line. If the house were constructed directly on the front yard setback line no rear yard variance would have been necessary for the requested enclosure.

The deck itself is not in violation of the rear yard setback as an unenclosed deck is allowed to encroach into a rear yard setback by up to 25% of the depth of the rear yard setback. However, once that deck becomes enclosed, as is proposed by the Applicants, then the 25% exception does not apply and the enclosed structure must comply with the rear yard setback, which is 35 feet in Mr. and Mrs. Belton's case. As the existing deck extends 6 feet into the rear yard setback, a 6 foot variance is required in order to enclose it.

Mr. Belton also expressed his hope that with the variance he would have a more comfortable place for his children and grandchildren to gather for family get-togethers.

Next testified Terry Hunt, project manager for Patio Enclosures. Patio Enclosures is the contractor retained to construct the enclosure on the Belton deck.

Mr. Hunt described the proposal as a 12 foot by 16 foot patio enclosure, very similar in size to many others which his company has constructed throughout Edgewood and throughout Harford County. Mr. Hunt believes there is no other practical place on the Belton property to put such an enclosure. Mr. Hunt's company has placed at least 45 similar enclosures in the Edgewood area. The standard size of those enclosures is 12 feet by 14 feet, 12 feet by 16 feet, and 12 feet by 18 feet. Mr. Hunt read into the record the addresses of a number of residences to which his company has attached similar enclosures. However, Mr. Hunt does not believe any of those other projects required variances. Mr. Hunt also stated that the subject property rises some 6 to 7 feet to its rear, going up to the rear property line.

Mr. Hunt further described the proposed enclosure as being roofed, glass and screened sided, and unheated. The existing foundation under the deck would be utilized as the deck has been constructed according to Harford County building code. Mr. Hunt also re-emphasized the fact that the house sits behind the front setback line. No variance would be necessary if the house were sited on the front property line.

Next for the Harford County Department of Planning and Zoning testified Dennis Sigler. Mr. Sigler gave the finding of the Department that there is nothing unique about the property. "The lot is similar in shape, size and topography to the other lots in the neighborhood." Mr. Sigler did, however, state that if the variance were approved, the Applicants should install appropriate vegetative ground cover in order to properly screen the enclosure.

No testimony or evidence was presented in opposition.

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APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. *Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) *By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

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FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants live in an obviously well maintained home in the Edgewood Meadows subdivision of Harford County. The home appears to be similar to others in size, shape and style in the community.

The Applicants wish to convert an existing 12 foot by 16 foot deck, constructed with a Harford County permit, into an unheated sunroom. The sunroom would have a roof; the walls would be glass and screen; it would sit on the existing deck. Because the deck is allowed by Harford County Code to extend into the required 35 foot rear yard setback without a variance, an enclosure which is placed on the deck would not be allowed without a variance. The enclosure would extend some 6 feet into that required 35 foot setback.

While there is nothing apparently different or unique about the Applicants' property, they argue that if the house had been erected on the front setback line, instead of in its present location, then a variance to the rear of the house would not be necessary. In other words, the enclosure could easily be built if the house had been moved slightly forward on the lot.

While perhaps not a totally compelling argument, it is found that given the relatively small size of this R3 zoned lot, the builder's failure to set the house on the front yard setback line does, in fact, cause the Applicants a hardship or practical difficulty. That hardship or practical difficulty is the Applicants' inability to build a sunroom similar to others in the community without the required variance. Furthermore, the house has extremely shallow side yards, with the side yard to the northwest of the house being also encumbered by what appears to be a basement entrance. As a result it is impractical to build any sort of a sunroom on either side of the house.

It is further found that the proposal will have no adverse impact on any adjoining neighbor or property. Appropriate screening, which will be a condition of this decision, should minimize if not eliminate any potential impact.

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CONCLUSION:

It is, accordingly, recommended that the proposed variance be granted, subject to the following conditions:

1. The Applicants obtaining all necessary permits and inspections.
2. The Applicants submitting a landscaping plan to the Harford County Department of Planning and Zoning for its review and approval.

Date: October 7, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on NOVEMBER 4, 2005.